

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

David A. Duren, #181965,)	
)	C/A No. 1:16-3026-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Jack Howle, Public Defender,)	
)	
Defendant.)	
_____)	

Plaintiff David A. Duren filed a complaint on September 1, 2016, alleging that Defendant Jack Howle has violated his constitutional rights by not turning over Plaintiff's case file. See 42.U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for pretrial handling.

The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. § 1915. The Magistrate Judge determined that the performance of traditional legal functions does not constitute state action for purposes of § 1983. Accordingly, the Magistrate Judge recommended that the complaint be dismissed without prejudice and without issuance and service of process. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de

novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. Plaintiff’s complaint is dismissed, without prejudice and without issuance and service of process.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

October 24, 2016

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.